

**CITY OF MORGAN HILL
JOINT SPECIAL AND
REGULAR CITY COUNCIL AND
REDEVELOPMENT AGENCY MEETINGS
MINUTES – JULY 28, 2010**

CALL TO ORDER

Mayor/Chair Tate called the Joint Special City Council and Redevelopment Agency meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members: Carr, Lee, Librers, Sellers, Tate
Absent: Council Members: None

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk McVay certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

Mayor/Chair Tate convened to Closed Session at 6:01 p.m.

City Council Action

CLOSED SESSION:

City Attorney Wan read the closed session items into the record.

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chair Tate opened the Closed Session items to public comment.

ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: Tichinin v. City of Morgan Hill
Case Number: Santa Clara Superior Court Case No. 1-05-CV-046112
Attendees: City Manager; City Attorney

2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: Canen v. City of Morgan Hill
Case Number: Santa Clara Superior Court Case No. 1-09-CV-141270
Attendees: City Manager; City Attorney

3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: Wollaston v. City of Morgan Hill
Case Number: Santa Clara Superior Court Case No. 1-08-CV-118938
Attendees: City Manager; City Attorney

4. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: Tomasello v. Arlia v. City of Morgan Hill
Case Number: Santa Clara Superior Court Case No. 1-10-CV-163185
Attendees: City Manager; City Attorney

5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to: Government Code Section 54956.9(b)
Number of Cases: One (1)

Redevelopment Agency Action

CLOSED SESSION:

6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: 726-23-015 17690 McLaughlin and 98 E. Central Avenues Morgan Hill
Negotiating Parties: UHC Morgan Hill LP a California limited Partnership
Agency: Executive Director, Agency Counsel, Director of Business Assistance and Housing Services
Property Owner: Morgan Hill Redevelopment Agency
Under Negotiation: Price and Terms of Payment

CLOSED SESSION ANNOUNCEMENT

Mayor Tate reported that closed session was not completed and would resume at the conclusion of the regular meeting.

ADJOURNMENT

Mayor/Chair Tate adjourned the Joint Special City Council and Redevelopment Agency meeting at 6:01 p.m. and convened the Joint Regular City Council and Redevelopment Agency meeting at 7:00 p.m.

CALL TO ORDER

Mayor/Chair Tate called the Joint Regular City Council and Redevelopment Agency meeting to order at 7:00 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS / RECOGNITIONS / INTRODUCTIONS

PRESENTATIONS

Beyond Measure A Workshop Results

Bert Berson, Beyond Measure A Committee (BMA) presented the Beyond Measure A Workshop PowerPoint presentation distributed as part of the agenda packet recommending four working groups scoped in the presentation.

In response to Mayor Tate concerning housing density, Mr. Berson shared that more housing was requested, which was suggested prior to the approval of the Downtown Specific Plan.

In response to Mayor Tate concerning housing density, Mr. Berson shared that higher density is needed and was based on the old Downtown Plan.

In response to Council Member Lee concerning the resident sampling of 119 persons, Mr. Berson shared that a random sampling of residents in the City establishes a reasonable confidence level.

In response to Council Member Librers concerning a resolution and the purpose, Mr. Berson shared that the group work is complete, although as individual members of the group have an interest in the formation of infrastructure.

Dennis Kenney shared that the makeup of the working group outlined in the handout would become the new working groups who would be the eyes and ears on the project.

In response to Council Member Lee concerning persons that would be included in the work group, Mr. Kennedy shared that all citizens will be included.

In response to Council Member Carr concerning identification of hot button issues, Mr. Berson shared that the group provided the comments, which is included at the back of the report, as raw data.

In response to Council Member Carr concerning raw data comments, Mr. Berson shared that the BMA group provided comments.

Mr. Kennedy shared that the group did not take a strong position, instead reporting what was heard from the community.

Map Your Neighborhood (MYN) Program

Jennifer Ponce, Office of Emergency Services (OES) Coordinator presented the map that was distributed as part of the agenda packet, designed to reach all households for disaster preparation.

In response to Council Member Lee concerning the distribution method, OES Coordinator Ponce shared that distribution will take time and effort, with staff and facilitators, which will use neighborhood watches.

CITY COUNCIL REPORTS

Council Member Carr reported on three (3) South County Wastewater Regional Authority (SCWRA) project bids received and favor considerably under the engineer's estimates.

CITY MANAGER'S REPORT

City Manager Tewes announced that a significant street closure would occur in the next few weeks lasting for 48 hours beginning August 10, 2010 and ending on August 12, 2010 on Dunne Avenue due to railroad track repairs by Pacific Railroad. Additional information will be distributed by various means.

CITY ATTORNEY'S REPORT

City Attorney Wan had no reports.

OTHER REPORTS

Mayor Tate shared that the representative Senate District 15 lost its representation due to Abel Maldonado's appointment to Lieutenant Governor, a special election will be held on August 17, 2010 and encouraged the community to vote.

PUBLIC COMMENT

Art College shared sections of the Brown Act and violations concerning his inability to speak to an item on July 21, 2010 and requested that the action be cured.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

Action: *On a motion by Council/Agency Member Lee and seconded by Council/Agency Member Carr **Adopting** the Agenda as posted The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Librers **Approving** the City Council and Redevelopment Agency Consent Calendar Items 1 through 7. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

1. MAP YOUR NEIGHBORHOOD PROGRAM

Recommended Action(s): Authorizing the City of Morgan Hill's Office of Emergency Services to launch the Map Your Neighborhood (MYN) Program.

2. **ALARM ORDINANCE ADMINISTRATION CONTRACT**

Recommended Action(s):

1. **Approving** Resolution No. 6353 authorizing the City Manager to execute a contract with Public Safety Corporation for the administration of Morgan Hill Municipal Code 8.48.

3. **AWARD OF INSTALLATION OF BICYCLE LOCKERS PROJECT**

Recommended Action(s):

1. **Approving** project plans and specifications; and
2. **Awarding** contract to Lawrence Backhoe Service of Atwater, California, for the construction of the Installation of Bicycle Lockers Project in the amount of \$39,025; and
3. **Authorizing** expenditure of construction contingency funds not to exceed \$1,992.

4. **ADOPT ORDINANCE NO. 1990, NEW SERIES, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTER 18.73 (WATER CONSERVING LANDSCAPES) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL ESTABLISHING NEW LANDSCAPING REGULATIONS PURSUANT TO THE CALIFORNIA WATER CONSERVATION IN LANDSCAPING ACT**

Recommended Action(s): **Waiving** the reading, and **Adopting** Ordinance No. 1990, New Series, and declare that said Title, which appears on the Agenda, shall be determined to have been read by Title and further reading waived.

5. **APPROVAL OF LANDSCAPE MAINTENANCE INTERIM AGREEMENT**

Recommended Action(s):

1. **Approving** interim maintenance agreement for grounds and landscape maintenance service with Smith & Enright Landscaping, Inc., in the amount of \$33,015, from 8/1/10 through 10/30/10; and
2. **Authorizing** the City Manager to execute the agreement on behalf of the City.

6. **ENVIRONMENTAL ASSESSMENT, EA-10-07: BUTTERFIELD SOUTH EXTENSION**

Recommended Action(s): **Approving** Resolution No. 6354 adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP).

City Council and Redevelopment Agency Action
CONSENT CALENDAR:

7. **POLICIES FOR ADDRESSING HOUSING LOAN DEFAULTS**

Recommended Action(s):

1. **Adopting** Resolution No. 6355 and Resolution No. MHRA-323 approving City/Agency policy and procedures for responding to Housing Rehab defaults and authorize the Executive Director/City Manager to do everything necessary and appropriate to implement the policy.

City Council Action

OTHER BUSINESS:

8. **PARKS AND RECREATION COMMISSION, PLANNING COMMISSION AND
LIBRARY, CULTURE AND ARTS COMMISSION (LCAC) WORK PLANS**
(Supplement filed)

Recommended Action(s):

1. **Adopt** the Parks and Recreation Commission, Planning Commission and Library, Culture and Arts Commission work plans.

City Manager Tewes presented the staff report and referenced the supplement provided.

Mayor Tate expressed interest in discussing the Library, Culture and Arts Commission work plan, influence on the budget decisions, but instead providing recommendation to the City Council.

In response to Council Member Lee concerning rewording the language, Mayor Tate responded that it is his suggestion.

City Manager Tewes clarified that by ordinance the Commission has an advisory roll to the City Council and that the LCAC make recommendations on funds raised for expenditures although it could be changed.

The City Council spoke of budget impacts, supporting the City Council as an advisory roll and recommending that the language remain as it is written.

Mr. Salah shared that the LCAC's intention is to help prepare the general framework of Downtown events as related to the LCAC.

Ms. Meador shared that identifying a liaison to continue dialog and not take a lead roll in resolving conflicts outside the purview of the LCAC.

Council Member Librers suggested rewording the language to clarify the desire to facilitate but not organize.

In response to Council Member Lee concerning involvement with the Sister City organization, Ms. Meador shared that a member of the LCAC is involved with the Sister City program and the LCAC is supportive of this opportunity.

Ms. Meador spoke of the City's budget issue, public art, focus on volunteerism, fundraising to enhance downtown public art, and enhancing public art in downtown.

City Manager Tewes shared that public art policies were adopted a few years ago and suggested that the policies be considered in creating the work plans being considered.

In response to Council Member Carr concerning cultural heritage and involvement by other organizations, Ms. Meador shared the potential need to facilitate culture and working with schools in an advisory capacity.

In response to Ms. Meador concerning clarification on rewording the work plan, Mayor Tate shared that the work plan did not need to be brought back to the City Council and that the work plan only need be submitted to him.

Mayor Tate opened the public comment. Hearing no requests to speak, public comment was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Lee **Adopting** the Parks and Recreation Commission, Planning Commission and Library, Culture and Arts Commission work plans and providing modifications to be Library, Culture and Arts Commission to be adopted at a future meeting. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

9. **ADOPT CITY COUNCIL'S ARGUMENT FOR THE BALLOT MEASURE TO CONVERT THE CITY CLERK & CITY TREASURER OFFICES TO APPOINTED POSITIONS ON THE NOVEMBER 2, 2010 GENERAL ELECTION** (Supplement filed)
Recommended Action(s):
1. **Discuss and Adopt** the City Council's arguments for the proposed measure; and
 2. **Consider** adopting a resolution authorizing filing of rebuttal arguments submitted at municipal elections.

Assistant to the City Manager Stott presented the staff report including references to the supplement provided.

The City Council discussed signing the argument.

Council Member Lee shared that she does not support the Measure and will not sign the argument.

Mayor Tate opened the public comment.

Frank Mannocho spoke on the item and said he would write the opposition argument and requested information on the process.

City Attorney Wan shared that any qualified voter or association may submit an argument against the measure to the City Clerk and processes are outlined in the Elections Code in selecting the argument.

In response to Council Member Lee concerning her participation in the association against the measure, City Attorney Wan responded that she could.

In response to Mr. Mannocho concerning the deadline, Assistant to the City Manager Stott stated that the date provided in the staff report is August 5, 2010.

City Manager Tewes shared that arguments for and against are due at the same time.

Council Member Sellers requested Mr. Mannocho's thoughts on the rebuttal question in addition to the initial argument.

Mr. Mannocho believes that he, along with the citizens, should have the opportunity to rebut the argument.

Mayor Tate shared that he also wants the opportunity to rebut the public's argument.

Art College spoke of a poll concerning the ballot measure in the local paper, and stripping positions and restoring duties to the positions. Mr. College also spoke of budget and election expenses.

Hearing no further requests to speak, public comment was closed.

Council Member Carr supports moving forward with the process and does not have changes to the language in the measure.

Council Member Sellers commented that if rebuttal arguments were not submitted, there would be some cost savings.

Council Member Carr suggested that rebuttal arguments are not to be submitted, unless a rebuttal is submitted.

The City Council spoke of cities opting to appoint these positions through evolution, transparency, and oversight of the City Council is not a roll of these positions.

Action: *On a motion by Council Member Sellers and seconded by Council Member Librers **Adopting** the argument and identify signers as those supporting the argument or that the Mayor appoint individual signatories on the ballot if needed. The motion passed by the following vote: Ayes: 4; Noes: 1 (Lee); Absent: 0.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Librers **Adopting** Resolution No. 6356 authorizing filing of rebuttal arguments submitted at municipal elections. The motion passed by the following vote: Ayes: 4; Noes: 1 (Lee); Absent: 0.*

Mayor Tate called the recess at 8:18 p.m. and reconvened the meeting at 8:29 p.m.

Redevelopment Agency Action

OTHER BUSINESS:

10. SELECTION OF CALLANDAR ASSOCIATES FOR THE MONTEREY ROAD STREETScape PROJECT

Recommended Action(s):

1. **Authorize** the Executive Director to execute an agreement with Callander Associates to provide design services for the Monterey Road Streetscape project.

Business Assistance and Housing Services Director Toy presented the staff report and presentation (Handout filed).

In response to Agency Member Lee concerning the compensation summary provided in the staff report for 266,000, Business Assistance and Housing Services Director Toy shared that the initial proposal and the supplemental information indicates the changes in the scope of work.

Brian Fletcher, Callander Associates representative, presented information on the project (Handout filed) concerning traffic, stakeholders and Agency. Mr. Fletcher shared that the scope was crafted around goals.

In response to Agency Member Carr concerning dates, Mr. Fletcher said that the dates provided are samples.

In response to Agency Member Lee concerning engagement plans, community input and attendance, Mr. Fletcher shared that people are being informed and reached at the Saturday market and that they continue to provide outreach both before and after community meetings.

In response to Agency Member Lee concerning outreach to other organizations, Fletcher shared that attending other meetings, more community involvement for outreach, and supports working with Agency staff for additional outreach at zero cost.

In response to Agency Member Librers concerning reporting between now and March of 2011, Mr. Fletcher shared that open house events and workshops are documented, in particular those things that are agreed to, where information is quantified and then distributed at the workshops.

In response to Agency Member Sellers concerning outreach to community groups with professional expertise, Mr. Fletcher shared that the team is involved on the various projects and brings experience and needs Agency staff information on finding balance between community and staff input.

In response to Agency Member Sellers concerning the two-four lane road options downtown and seeking out the best options for Morgan Hill, Mr. Fletcher shared that the community provide input and is demonstrated by the Richmond Project by presenting the best options for the community.

In response to Chair Tate concerning identifying a series of meetings with various community groups and stakeholders, Mr. Fletcher shared that individual stakeholder meetings have not been set, and have a resource group for various levels of input.

In response to Agency Member Carr concerning stakeholder groups, weighing comments and meeting progression, Mr. Fletcher shared that it depends on the input source, such as the Fire Department, Home Owners' Associations, Agency staff and then information is shared with all groups. Mr. Fletcher shared that progression of meetings is seen.

In response to Agency Member Lee concerning familiarity with the community, Business Assistance and Housing Services Director Toy shared that staff reviewed experience with similar projects, teamwork with other companies, the community engagement processes, and the qualifications and standards provided a positive ranking.

Interim Community Development Director Piasecki expanded on the process, the competition and Callander Associates' experience in related processes.

Chair Tate opened the public comment.

The following speakers spoke on the item, specifically referencing the selection processes, addressing density, streetscape success, existing community investment, bring about players involved, recommended needs, and downtown character development.

Charles Weston
Vern Delgatty
Bert Berson

Hearing no further requests to speak, public comment was closed.

Agency Member Lee shared that she was under the impression that Assistant to the City Manager Heindel would oversee the streetscape and Barry Swenson Builders would coordinate the redevelopment; and she commented on the lack of coordination between the two projects.

Executive Director Tewes shared that recognizing the need for a downtown strategy and shared that Assistant to the City Manager Heindel will negotiate a development agreement of the two sites, which needs to be integrated into streetscape. There are many components of the projects, although they are not the same. City Manager Tewes shared that for success, various concepts are needed along with contract oversight; and that the development services function will have fewer resources with ambitious goals and he will make recommendations based on strategy set by the Agency.

Agency Member Sellers shared that the Agency should take a more active roll in the process with specific parameters to implement and provide outreach to groups who have completed work in downtown and finally set tone for the downtown redevelopment.

Agency Member Librers spoke of promoting local businesses and as development of process occurs, she recommended the use of local vendors and businesses.

Agency Member Carr spoke of the RFP goals and that the decisions made are not final, but provide options for decision-making; and he spoke of the process, order of the actions and that downtown development processes has been and will continue to be discussed for years. Agency Member Carr shared that it is incumbent on Council that the process moves forward and it is the Council's responsibility to be informed.

Agency Member Lee commented on experiencing first-hand involvement and the value in hearing comments directly.

Chair Tate spoke of local stakeholders, Mr. Weston's comprehensive project history in Morgan Hill (handout filed) and supports consideration of local groups that hold a strong position and incorporate ideas and desire for more public involvement.

Agency Member Carr spoke of weighing comments and providing equal preference to various stakeholders and that there is a balance in the decision-making.

Action: *On a motion by Agency Member Carr and seconded by Agency Member Tate **Authorizing** the Executive Director to execute an agreement with Callander Associates to provide design services for the Monterey Road Streetscape project. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

11. UPDATE ON THE MADRONE PLAZA AFFORDABLE TOWN HOME PROJECT

Recommended Action(s):

- 1. Authorize** the Executive Director to appropriate \$500,000 from the fund balance of Fund 327 for the \$1.4 million in down payment assistance loans to South County Community Builders for the Madrone Plaza Affordable Townhouse Project.

Business Assistance and Housing Services Director Toy presented the staff report.

City Manager Tewes spoke of project funding.

In response to Agency Member Lee concerning restrictive housing purchases, Business Assistance and Housing Services Director Toy shared that the loans allows competitive purchases.

The Agency discussed housing restrictions and encouraging the purchase of homes with restrictions.

Executive Director Tewes shared that there are project differences because taxpayers do not have investment in the Huntington project although they have an investment in the Madrone project. City Manager Tewes shared that to maintain an investment in the project, it must proceed.

Agency Member Sellers spoke of providing choices through market rate or less expensive homes for lower monthly payments.

Chair Tate opened the public comment.

Dennis Lalor, South County Housing representative, spoke about making housing opportunities available and stated in prior years costs have been lower and have had successes and different types of buyers for two projects and reduction may not be permanent, and market improvements prices will be expected.

Hearing no further requests to speak, public comment was closed.

In response to Agency Member Lee regarding the comparisons on page 297 of the agenda packet, the total for each of the programs, Business Assistance and Housing Services Director Toy shared that the table encompasses all the categories and the dollar amount for benefits is available to each complex.

Agency Member Carr spoke of prices not being Below Market Rate (BMR), providing housing, providing BMR housing, and that taxpayers are invested in the Madrone project and chart referenced in the agenda packet is an investment for the buyers and not the project.

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Carr **Authorizing** the Executive Director to appropriate \$500,000 from the fund balance of Fund 327 for \$1.4 million in down payment assistance loans to South County Community Builders for the Madrone Plaza affordable townhouse project. The motion passed by the following vote: Ayes: 4; Noes: 1 (Lee); Absent: 0.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

12. HORIZON SENIOR HOUSING PROJECT (2 Supplements filed)

Recommended Action(s):

1. **Authorize** the Executive Director/City Manager to execute the subordination agreement for the Horizon Senior Project and accept the Completion Guaranty for the project. (Note: documents available to the Agency Board prior to the meeting).

Business Assistance and Housing Services Director Toy presented the staff report and referencing the supplemental resolutions.

Mayor/Chair Tate opened public comment.

John Bigley Horizon Senior Housing Representative requested support of the project.

Hearing no further requests to speak, public comment was closed.

Agency and UHC representative discussion concerning the tax equity for completion, lending rules, the standstill right to consent, violations, subordination, senior affordability and default in any situation.

Agency and UHC Representative discussion concerning defaulting on the project, subordination to the Development Agreement to Bank of America, continuation of building the project and a completion guarantee.

City Attorney Wan shared that he does not believe this can be resolved this evening, and that there is a related issue on the closed session agenda as real estate negotiations; and consultation is necessary for direction to staff.

Agency discussion concerning the land transfer as listed on the closed session agenda.

A motion was not made; the Agency will consider the project at a future date and is dependent on action taken during closed session.

FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

Council Member Sellers requested that staff provide a recommendation on the value of the Beyond Measure A (BMA) recommendation.

Mayor/Chair Tate adjourned the joint Regular City Council and Redevelopment Agency meeting at 10:36 p.m. and reconvened the Joint Special City Council and Redevelopment Agency meeting at 10:36 p.m.

City Council Action

CLOSED SESSION:

Mayor/Chair Tate announced that closed session would resume.

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chair Tate opened the Closed Session items to public comment.

CLOSED SESSION ANNOUNCEMENT

City Attorney Wan announced that no reportable action was taken in Closed Session.

ADJOURNMENT

There being no further business, Mayor/Chair Tate adjourned the meeting at 11:27 p.m.

MINUTES PREPARED BY:



TINA McVAY, Deputy City Clerk

